

§ 48.4221-4 Tax-free sale of articles for use by the purchaser as supplies for vessels or aircraft.

(a) *Supplies for vessels or aircraft*—(1) *In general.* An article subject to tax under Chapter 32 may be sold tax free by the manufacturer, pursuant to section 4221(a)(3) and this section, for use by the purchaser as supplies for vessels or aircraft. See paragraph (b) of this section for the meaning of the term “supplies for vessels or aircraft.” An article may be sold tax free under the provisions of this section only in those cases where the sale of an article by the manufacturer is made directly to the owner, officer, charterer, or authorized agent of a vessel or aircraft for use as supplies for the vessel or aircraft. No sale may be made tax free to a dealer for resale for use as supplies for vessels or aircraft, even though it is known at the time of sale by the manufacturer that the article will be so resold. See section 6416(b)(2)(B) and paragraph (b)(2) of § 48.6416 (b)-2 for circumstances under which credit or refund of tax is available where tax-paid articles are used, or sold for use, as supplies for vessels or aircraft. An article may not be sold tax free under the provisions of this section by the manufacturer to passengers or members of the crew of a vessel or aircraft.

(2) *Civil aircraft of foreign registry.* In the case of any article sold by the manufacturer for use by the purchaser as supplies for civil aircraft of foreign registry employed in foreign trade or in trade between the United States and any of its possessions, the provisions of this paragraph apply only if the reciprocity requirements of section 4221(e)(1) are met. See paragraph (c) of this section.

(b) *Meaning of terms*—(1) *Supplies for vessels or aircraft.* The term “supplies for vessels or aircraft” means fuel supplies, ships’ stores, sea stores, or legitimate equipment on vessels of war of the United States or of any foreign nation, vessels employed in the fisheries or in the whaling business, or vessels actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions.

(2) *Fuel supplies, ships’ stores, and legitimate equipment.* The terms “fuel supplies”, “ships’ stores”, and “legitimate equipment” include all articles, materials, supplies, and equipment necessary for the navigation, propulsion, and upkeep of vessels of war of the United States or of any foreign nation, vessels employed in the fisheries or in the whaling business, or vessels actually engaged in foreign trade or in trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions, even though such vessels may make intermediate stops in the United States. The term does not include supplies for vessels engaged in trade (i) between domestic ports in the Atlantic Ocean and the Gulf of Mexico, (ii) between domestic ports on the Pacific Ocean, (iii) between domestic ports on the Great Lakes, or (iv) on the inland waterways of the United States.

(3) *Sea stores.* The term “sea stores” includes any article purchased for use or consumption by the passengers or crew, or both, of a vessel during its voyage.

(4) *Vessels.* The term “vessel” includes (i) every description of watercraft or other contrivance used, or capable of being used, as a means of transportation on water, (ii) civil aircraft registered in the United States and employed in foreign trade or in trade between the United States and any of its possessions, and (iii) civil aircraft registered in a foreign country and employed in foreign trade or in trade between the United States and any of its possessions.

(5) *Vessels of war of the United States or of any foreign nation.* The term “vessels of war of the United States or of any foreign nation” includes (i) every description of watercraft or other contrivance used, or capable of being used, as a means of transportation on water and constituting equipment of the armed forces (including the U.S. Coast Guard and U.S. National Guard) of the United States or of a foreign nation, and (ii) aircraft owned by the United States or by any foreign nation and constituting equipment of the armed forces thereof. For purposes of this section, vessels or aircraft owned by armed forces are not considered to be

equipment of such armed forces while on lease or loan to an organization that is not part of the armed forces.

(6) *Vessels used in fisheries or whaling business.* The exemption provided by section 4221(a)(3) and paragraph (a) of this section in the case of articles sold for the prescribed use on vessels employed in the fisheries or whaling business is limited to articles sold by the manufacturer for such use on vessels while employed, and to the extent employed, exclusively in the fisheries or in the whaling business. For purposes of this section, vessels engaged in sport fishing are not considered to be employed in the fisheries.

(7) *Civil aircraft.* The exemption provided by section 4221(a)(3) and paragraph (a) of this section relating to supplies for vessels or aircraft, with respect to civil aircraft, extends only to civil aircraft when employed in foreign trade, or in trade between the United States and any of its possessions. Sales of supplies to civil aircraft when engaged in trade between the Atlantic and the Pacific ports of the United States are not exempt from the tax imposed under Chapter 32. See section 4221(e)(1) and paragraph (c) of this section for requirement of reciprocal exemption in the case of a civil aircraft registered in a foreign country.

(8) *Trade.* The term "trade" includes the transportation of persons or property for hire and the making of the necessary preparations for such transportation. The term "trade" also includes the transportation of property on a vessel or aircraft owned or chartered by the owner of the property in connection with the purchase, sale, or exchange of the property in a commercial business operation. However, a vessel owned or chartered by a company and used in the transportation of personnel or property of such company to or from its business properties located in a foreign country, or in a possession of the United States, is not engaged in "trade".

(c) *Reciprocity required in the case of civil aircraft.* The exemption provided by section 4221(a)(3) and paragraph (a) of this section with respect to the sales of supplies for civil aircraft registered in a foreign country is further limited in that the privilege of exemption may

be granted only if the Secretary of Commerce advises the Secretary of the Treasury that the foreign country allows, or will allow, substantially the same reciprocal privileges. If a foreign country discontinues the allowance of such substantially reciprocal exemption, the exemption allowed by the United States will not apply after the Secretary of the Treasury is notified by the Secretary of Commerce of the discontinuance of the exemption allowed by the foreign country.

(d) *Evidence required to establish exemption—(1) In general.* The exemption provided in section 4221(a)(3) and paragraph (a) of this section for articles sold for use by the purchaser as supplies for vessels or aircraft applies only (i) if both the manufacturer and purchaser are registered under the provisions of section 4222 or (ii) the purchaser or both the manufacturer and the purchaser are not registered but have satisfied the provisions of paragraph (d)(2) of this section. See paragraph (c) of § 48.4221-1 for the evidence required to establish exemption where the purchaser is registered pursuant to section 4222 and § 48.4222(a)-1.

(2) *Exemption certificates for use in support of tax-free sales of supplies for vessels and aircraft.* (i) In order to establish exemption from tax under section 4221(a)(3) in those instances where the purchaser or both the manufacturer and purchaser are not registered under section 4222, the manufacturer must obtain (prior to or at the time of the sale) from the owner, charterer, or authorized agent of the vessel or aircraft and retain in the manufacturer's possession a properly executed exemption certificate in the form prescribed by subdivision (iii) of this paragraph (d)(2). If articles are sold tax free for use as supplies for civil aircraft employed in foreign trade or in trade between the United States and any of its possessions, the exemption certificate must show the name of the country in which the aircraft is registered.

(ii) Where only occasional sales of articles are made to a purchaser for use as supplies for vessels or aircraft, a separate exemption certificate shall be furnished for each order. However, where sales are regularly or frequently made to a purchaser for such exempt

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use, a certificate covering all orders for a specified period not to exceed 12 calendar quarters will be acceptable. Such certificates and proper records of invoices, orders, etc., relative to tax-free sales must be kept for inspection by the district director as provided in section 6001 and the regulations thereunder.

(iii) *Acceptable form of exemption certificate.* The following form of exemption certificate will be acceptable for the purposes of this section and must be adhered to in substance:

EXEMPTION CERTIFICATE

(For use by purchasers of articles for use as fuel supplies, ships stores, sea stores, of legitimate equipment on certain vessels or aircraft (sections 4221 and 4222 of the Internal Revenue Code of 1954).)

(Date) _____, 19____.

I, the undersigned purchaser, hereby certify that I am the _____ (Owner, charterer, or authorized agent) of _____ (Name of company and vessel) and that: (Check applicable type of certificate)

_____ the article or articles specified in the accompanying order, or on the reverse side hereof, (or)

_____ all orders placed by the purchaser for the period commencing (Date) _____ and ending (Date) _____ (period not to exceed 12 calendar quarters), will be used only for fuel supplies, ships' stores, sea stores, or legitimate equipment on a vessel belonging to one of the following classes of vessels to which section 4221 of the Internal Revenue Code applies: (Check class to which vessel belongs.)

- (1) Vessels engaged in foreign trade.
- (2) Vessels engaged in trade between the Atlantic and Pacific ports of the United States.
- (3) Vessels engaged in trade between the United States and any of its possessions.
- (4) Vessels employed in the fisheries or whaling business.
- (5) Vessels of war of the United States or a foreign nation.

If the articles are purchased for use on civil aircraft engaged in trade as specified in (1) or (3) above, state the name of the country in which the aircraft is registered:

I understand that if the articles are used for any purpose other than as stated in this certificate, or are resold or otherwise disposed of, I must report such fact to the manufacturer. I understand that this certificate may not be used in purchasing articles tax free for use as fuel supplies, etc., on pleasure vessels, or on any type of aircraft except that (i) civil aircraft employed in foreign

trade or trade between the United States and any of its possessions, and (ii) aircraft owned by the United States or any foreign country and constituting a part of the armed forces thereof.

I understand that the fraudulent use of this certificate to secure exemption will subject me and all parties making such fraudulent use of this certificate to a fine of not more than \$10,000, or to imprisonment for not more than 5 years, or both, together with costs of prosecution. I also understand that I must be prepared to establish by satisfactory evidence the purpose for which the article was used.

(Signature)

(Address)

§ 48.4221-5 Tax-free sale of articles to State and local governments for their exclusive use.

(a) *In general.* An article (excluding an automobile subject to tax under section 4064) subject to tax under Chapter 32 of the Code may be sold tax free by the manufacturer, pursuant to section 4221(a)(4) and this section, to a State or local government for the exclusive use of such State or local government. See paragraph (b) of this section for the meaning of the term "State or local government". An article may be sold tax free by the manufacturer under this paragraph only in those cases where the sale is made directly to a State or local government for its exclusive use. Accordingly, no sale may be made tax free to a dealer for resale to a State or local government for its exclusive use, even though it is known at the time of sale by the manufacturer that the article will be so resold. A sale of an article to a State or local government for resale is not considered to be a sale for the "exclusive use" of the State or local government, within the meaning of section 4221(a)(4), and, therefore, such sales may not be made tax free. Such sales are not exempt regardless of whether the resales are made to government employees, or the fact that the article is an item of equipment the employee is required to possess in carrying out his duties. For example, pistols or revolvers may not